The
BEACON SpotLight
A Study of Constitutional Issues by Topic

Issue 30: Regulating the Value of Money and the 1834 Coinage Act

The previous issue of *The Beacon Spotlight* examined the enumerated power of Congress "To coin Money," mainly by focusing on the Coinage Act of April 2, 1792.

The present issue will look at the enumerated power of Congress to regulate the value of money, primarily by examining the Coinage Act of June 28, 1834.

That isn't to say that the 1792 Coinage Act didn't also regulate monetary value, it's just that value was therein regulated only in regulation's simplest form.

"To…regulate" means to make something regular, as in consistent and uniform.

The 1792 Coinage Act made the value of money regular, consistent and uniform, by objectively defining the standard "unit" for the measure of subjective value—the "dollar"—as a coin of 371.25 grains of pure silver, in the standard weight of 416 grains, and then designating the subsidiary coins, in proportional weights, at proportional values.

The difference in value between the dollar and the subsidiary silver coins lay only in their weight. The half dollar contained exactly one-half of the amount of the physical silver, the quarter dollar one-quarter, the dime one-tenth, and the half-dime one-twentieth, all in the same standard of purity as the dollar.

And, Congress designated the gold coin of 247.5 grains of pure gold, weighing a total of 270 grains, as one "eagle," and valued it at $10.00, designating also the half-eagle and quarter-eagle, in proportional weights and values.

In setting the weight and purity of the different silver and gold coins, Congress simultaneously established the ratio of fine gold, to fine silver, at 15-to-1, which mirrored the international trade standard (market ratio) of the day. Every part of pure gold was made 15 times more valuable as the same amount of pure silver (or, saying the same thing another way, it took 15 times as much fine silver, to make the same dollar value, of fine gold).

Both gold and silver coins were struck and made a tender at their actual weights, according to their respective standards of purity.

Low-value copper coins were also struck, but were not made a tender, even as they were also given a monetary value (of one cent and a half-cent [1/100th of a dollar and 1/200th of a dollar], respectively).

While some people may argue that giving copper coins a monetary value without making them a tender largely made it a distinction without effect, note that debt holders could refuse payment in copper coins. For example, for a remaining debt of $6.21, the debt owner could demand payment in gold and/or silver to $6.20 and accept only the copper penny or two half-pennies for the extra $.01.

In this manner, the United States were able to enjoy the positive effects of three monetary metals, reaching to different-sized purchases, all in one money of account (the dollar, divisible by tenths, hundredths, and thousandths [milles]).

But, choosing a bi-metallic lawful tender monetary system with fixed parity had a potential—or perhaps inevitable—pitfall, being the day when the fixed parity between the two metals became outdated or obsolete.

The momentum for parity change that began in the 1820s grew in the early 1830s. With silver production increasing worldwide, relative to (more stable) gold, the value of silver soon decreased some seven percent.

The workings of the 1834 Act changed the gold-to-silver ratio from 1:15 to 1:16, even as the 1834 Act did not directly set a legal ratio, as did the 1792 Act.[1]

The 1834 Act reduced the gold content of the gold coins (while maintaining their value), making gold more valuable in relation to the unchanged silver coins, to reflect real world valuation ratios of both metals.

As the disparity between the metals grew in the 1830s, more people began preferentially holding onto their gold coins and paying with silver, because gold was becoming increasingly undervalued at law. Others alternatively began selling their gold coins to bullion dealers for their melt value, which brought them more money than the coins' legal value.

When multiple forms of money with different market value otherwise have the same legal value, Gresham's Law indicates that people will preferentially spend the money they value least, and hold onto the money they value most. Paying for goods and services in the cheapest available money that will settle debts and accounts becomes second nature to most debtors.

The long-term solution for this reoccurring dilemma is to break the fixed legal parity between items with differing traits, which cannot remain forever fixed, due to their fundamental differences. The short-term solution is to correct the legal value to its market value.

Those who were able to save their gold coins were ultimately rewarded for their patience with the 1834 Coinage Act, as Congress finally corrected the outdated legal ratio of gold-to-silver, to their appropriate market rates. But, please do not understand that by this action, that Congress subsidized the owners of gold at the expense of those who owned silver (as the Supreme Court later deviously inferred, to support their intentional but deceptive actions to support legal tender paper currencies [to subsidize improperly those who emitted paper currency, impoverishing everyone else]).

Indeed, the 1834 Coinage Act removed the prior but unintended subsidy that silver coin owners had been indirectly receiving, by Congress holding too long the higher value of silver coins, than market forces would otherwise dictate. It simply took some time for Congress to figure out what to do and then act.

The framers and ratifiers of the Constitution never intended Congress should artificially support either metal at the expense of the other, so it was proper for Congress to act in 1834, to regulate properly the value between the various forms of money, back into market and legal parity.

By the actions of the 1834 Coinage Act, one may better understand the full and proper meaning of the express power of Congress "to regulate the value" of coins of gold and silver.

Failure to regulate adequately the legal value of gold and silver to their market rates earlier meant that to the extent which gold coins were either melted for their higher-value bullion content or were preferentially hoarded at home, the United States had in the interim shifted toward a silver coin standard, as gold was driven from circulation in the marketplace.

Having an off-balanced fixed legal parity ultimately proves worse than no established legal parity, because in the latter situation, both metals remain available for use, anytime a willing buyer and willing seller come to an individual agreement on the dollar-value of the coins of the other metal that are offered in trade. But, whenever the market price between the two metals varies from their legal ratio, the improperly-valued metal with a fixed low legal price greatly deters circulation of that metal, because, after all, it has a legal price and who wants to buy at a price higher than the law holds it out to be worth? But, ultimately, if owners of the underpriced metal won't bring it to the market to trade at the legal price, then people who want the undervalued metal at its legal price won't have much luck buying it.

1. June 28, 1834 Coinage Act. 4 *Stat.* 699.

371.25 grains fine silver/23.2 fine grains gold (per dollar) equals16.002 grains fine silver per grain of fine gold.

Article I, Section 8, Clause 5 of the U.S. Constitution details that members of Congress are expressly empowered "To coin Money" and "regulate [its] Value," but does not by this clause directly indicate which precious metal[s] may be coined into money and be made a tender in payment of debts.

However, Article I, Section 10, Clause 1 of this same Constitution prohibits the States from making "any Thing but gold and silver Coin a Tender in Payment of Debts," thereby indirectly indicating which metals Congress may strike as lawful or legal tender.[2]

With the States expressly denied the power to declare things a tender besides gold and silver coin, this clause acknowledges that the States may only declare gold and silver coin a tender. It does not directly offer the States a single choice between the two, as in only gold or only silver.[3]

By its words—"To coin Money," to "regulate the Value" of coined money, by directing that "gold and silver Coin" may be declared a tender and, lastly, by empowering Congress to "fix the Standard of Weights and Measures" (also from Article I, Section 8, Clause 5)—the U.S. Constitution empowers Congress to fix the legal value of gold-to-silver.

But, that is not to say that as the economy advances and becomes ever-more intricate and involved, that Congress could ever hope to keep up with this legal duty to accurately and adequately regulate the value of gold and silver in a fixed parity, within an ever-fluctuating and increasingly-sophisticated market. Of course, with a true coin standard, much of the wider economic swings Americans faced over the last century could have been drastically reduced, offering far greater monetary stability. Nonetheless, even if we had maintained honest money, it could yet be that greater financial velocity would have induced the country to move toward a single-metal coin standard.[4]

Before the Constitution was proposed, Superintendent of Finance Robert Morris in 1782 recommended to the Confederation Congress that they establish a single-metal currency, arguing that a:

> "money standard affixed to both the precious metals will not give this certain scale, it is better to make use of one only."[5]

Morris preferred silver, because:

> "Gold is more valuable than silver…but it is from that very circumstance the more exposed to fraudulent practices."[6]

Nearly a decade later, Alexander Hamilton—as Secretary of the Treasury under the ratified Constitution—came to an opposing conclusion, asserting that if only one metal was to be used:

> "it ought to be gold rather than silver…to render the unit as little variable as possible; because on this depends the steady value of all contracts, and, in a certain sense, of all other property."[7]

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2. Some patriots make a great distinction between "lawful" tender and "legal" tender, as if on that inconsequential difference rests all of legal tender paper currencies. This author is not one of those people—he asserts the true difference is "where" they are being made a tender (whole U.S.A. vs. only D.C.). For more on this topic, please see the author's public domain books, *Dollars and nonCents* (pp. 17- 21) and *Monetary Laws of the United States* (pp. 56-90). www.PatriotCorps.org

3. The States reserved to themselves all the powers that they did not delegate to the Congress and the U.S. Government, except those things they directly prohibited themselves. Article I, Section 10 prohibits the States from making things a tender besides gold and silver coin and thus, by that prohibition, the States are prohibited from making things such as tobacco a tender, like they had earlier done. By its express wording, one could argue that by Clause 1 prohibiting everything else but gold and silver, that it therefore required both gold *and* silver coins being made a tender (in a single money of account; i.e., at a fixed parity).

4. Realize that in 1900, the gold dollar of 25.8 grains .900-fine became the Standard of Value, largely kicking silver to the curb, which silver dollar had been made the Standard of Value, in 1792.

5. See Superintendent of Finance Robert Morris' January 15, 1782 Report, in Matt Erickson's public domain book, *Monetary Laws of the United States*, Volume II, Appendix C, Pages 61-65. www.PatriotCorps.org

6. *Ibid*.

7. Alexander Hamilton's January 28, 1791 report No. 24, on the establishment of a mint, in Matt Erickson's public domain book, *Monetary Laws of the United States*, Volume II, Appendix D, Pages 79-98, @ 82. www.PatriotCorps.org.

But, Hamilton concluded the best approach was:

> "not to attach the unit exclusively to either of the metals; because this cannot be done effectually, without destroying the office and character of one of them as money, and reducing it to the situation of a mere merchandise…To annul the use of either of the metals, as money, is to abridge the quantity of circulating medium, and is liable to all the objections which arise from a comparison of the benefits of a full, with the evils of a scanty circulation."[8]

Hamilton acknowledged the problems inherent in a dual-metal money system—that [arbitrage] traders would "select that species which it values least, to pay to the other, where it is valued most."[9] Hamilton also acknowledged that "dealers in money will…often find a profitable traffic in an exchange of the metals between the two countries."[10]

Hamilton postulated that the loss of the quantity of the circulating medium with only one monetary metal:

> "would, probably, be a greater evil than occasional variations in the unit, from the fluctuations in the relative value of the metals; especially, if care be taken to regulate the proportion between them, with an eye to their average commercial value."[11]

In this last passage, Hamilton points to the "cure" for inevitable monetary metal imbalances, solved by *regulating* "the proportion between them, with an eye to their average commercial value."

While Morris fortuitously sought to avoid fixed legal ratios, Hamilton argued that by properly regulating their rate, according to their average commercial ratio, that the United States should be able to avoid the problems of bimetallism, while best ensuring an adequate supply of money, using both metals.

But, Hamilton alluded to difficulty, if sufficient care wasn't given, and the average commercial proportion between the two metals wasn't adequately regulated.

8. *Ibid.*, @ 83.
9. *Ibid.*, @ 84.
10. *Ibid.*
11. *Ibid.*, @ 83.

And, with that introduction, it is time to look at the Coinage Act of June 28, 1834, to see how Congress finally addressed the growing disparity, that was effectively forcing gold from circulation.

The 1834 Coinage Act left alone silver, which was appropriate, since the silver dollar was the Standard of Value—the unit measure in and for the measurement of value—and everything else of value should be regulated or adjusted to it.

In 1834, Congress regulated the value of gold coins to their market rates, making gold more valuable at law, like it was, worldwide. Members first made the old standard—of 270 grains of gold 11/12ths-fine, per ten dollars—obsolete (or, in appropriate lingo, no longer "current" as money [no longer "current money"]).

Section 3 of the 1834 Act provided the new, higher-valuation-rate of the old gold eagles (and half- and quarter-eagles), in dollars (cents):

> "That all gold coins of the United States, minted anterior to the thirty-first day of July next shall be receivable in all payments at the rate of ninety-four and eight-tenths of a cent per pennyweight."[12]

A "pennyweight," recall, is equal to 24 grains, or 1/20th of a troy ounce (1 troy ounce equals 20 pennyweights or 480 grains).

"Anterior" means "front" or "before." The 1834 Act provided that gold coins minted before the Act's effective date were to be "receivable in all payments" at the new rate, of 94.8 cents per pennyweight of actual weight (standard weight [including the alloy]).

With the 270-grain 1792-era eagle equaling 11.25 pennyweights (270/24), the 270-grain 1792-era eagle became worth $10.665 (11.25 X 94.8 cents).

Here one sees that obsolete American 1792-era gold coins effectively lost their status as a tender at their original rate, and became valued in their weight as a commodity (which, as far as things go, isn't here bad).

The 1834 Act also designated a new $10 eagle, to contain 232 grains of fine gold, weighing 258 grains (232/258 = .899224 purity standard).

12. June 28, 1834 Coinage Act. 4 *Stat.* 699.

The 1792-era value of pure gold was in 1792 worth $19.39/ounce (10 dollars/247.5 grains pure gold X 480 grains/ounce [equating with $.0404/grain of pure gold {$10.00/247.5}]).

Under the 1834 Coinage Act, pure gold became valued at $20.69 per ounce (10 dollars/232 grains of pure gold X 480 grains/ounce), equating to $.04309/grain in 1834 ($10.665/247.5 [or also $10.00/232 {strictly speaking, 232 X .0430909 = $9.997—which, rounded to two decimal places, equals $10.00}]).

In both the 1792 and 1834 Acts, one sees in all instances that gold coins remained valued solely according to the weight of pure gold, no matter how many grains they actually contained.

The difference in monetary valuations between the 1792 eagle ($10.665) and the 1834 eagle ($10.00) in 1834 dollars, was due solely to the amount of pure gold in each (247.5 grains of pure gold vs. 232 grains of pure gold, respectively).

In 1834, the two different eagle coins of differing weights issued under differing Acts were given differing values, dependent upon the amount of gold therein.

The consistent theme of all these early coinage Acts—whether gold or silver were priced per pennyweight, per ounce, or per grain and whether they were valued in standard weight or in the weight of pure metal—was that legal value was ultimately determined solely according to the weight of precious metal, in a particular and designated standard of purity.

While the value of pure gold established in 1792 at $19.39/ounce rose to $20.69/ounce in 1834, that was the express and legitimate point of the 1834 Act—to re-orient the legal price of gold to its true market rate, relative to silver, which wasn't changed at law.

Strictly speaking, the 1834 Coinage Act could have simply rated the 1792-era gold coins at 94.8 cents per pennyweight of standard gold and stopped right then and there. There wasn't any real need to create a new lighter-weight gold eagle, still valued at $10.00, other than for convenience (which admittedly is important).

After all, designating new, lighter-weight gold coins in familiar dollar values ultimately meant that all the old gold coins struck over the previous 40 years would likely end up being re-struck into lighter-weight coins.

Coinage historians have estimated that some 99% of all the gold coins struck under the 1792 Coinage Act were either melted into bullion before the 1834 Coinage Act, or melted soon afterwards, and restruck into new, lighter-weight gold coins.

To discard 40-years' worth of work—sending all those old gold coins back to furnace, to make new gold coins—was no minor thing, after all. But, looking to ease the circulation of gold coins by keeping them at convenient denominations is a worthwhile objective (if the new parity would long remain accurate, at least).

Under both the 1792 and 1834 Coinage Acts, each coin's lawful value was determined solely by weight and purity. Any coin that had been debased, clipped, or otherwise lightened—even when lightened by operation of law—was legally valued only at its true content of pure gold (or pure silver).

One could argue that the 1834 Coinage Act made the 1792-era gold eagles "foreign" to the 1834 gold coins, which brings up another of the enumerated powers of Congress.

Article I, Section 8, Clause 5 has one more power which hasn't been herein yet covered, which is that members of Congress were also given the express power to regulate the American value of foreign (gold and silver) coins.

The phase—"and of foreign Coin"—found in Art. I:8:5, points to the regulation of the American value of foreign Coin, within its words:

> "Congress shall have Power…To coin Money, regulate the Value thereof, and of foreign Coin, and fix the Standard of Weights and Measures."

In the early days of the Republic, the United States had no gold and silver coin of their own. The States were not only broke—they were deeply in debt, without even a government mint to their name.

After all, the U.S. Constitution was proposed and ratified primarily because the debts incurred during the Revolutionary War (which enabled us to secure our freedom) weren't being regularly paid, and it was proper that a government capable of paying off those rightfully-incurred debts be established, if the earlier form of government proved ineffective to the task.

So, how did members of Congress begin to institute lawful money when the U.S. Government had none?

Answer: "slowly." Two factors eased the transition.

First, Section 14 of the Coinage Act of 1792 made it lawful for private citizens to bring their own bullion (or their owned foreign coin, or silver plate, etc.) to the mint, for free coinage into struck coins, saying:

> "it shall be lawful for any person or persons to bring to the said mint gold and silver bullion, in order to their being coined; and that the bullion so brought shall be there assayed and coined as speedily as may be after the receipt thereof, and that free of expense to the person or persons by whom the same shall have been brought."[13]

In this manner, people who had gold and silver could have coins struck by the mint, free of expense, at least if they were willing to wait for their bullion to be assayed and struck into coin (Section 14 allowed the mint to charge .5% for an alternate service, of giving depositors already-struck coins, without the depositor having to wait for their own bullion to be made into coins [at least when the mint had a ready stockpile]).

A second matter aided the flow of money early on and this was the express power of Congress to regulate the American value of foreign coins.

A 1793 Coinage Act regulated the American value of various foreign coins that would thereafter "pass current as money in the United States" and be "a legal tender for the payment of all debts and demands."[14]

For instance, "the gold coins of Great Britain and Portugal, of the present standard," shall be current as money at the "rate of one hundred cents" for "every twenty-seven grains of the actual weight thereof."[15]

With every 27 grains of British and Portuguese gold coins equating to one American dollar (100 cents), every 270 grains of British and Portuguese gold coins would therefore be montarily equal to ten dollars—the same as American gold coins.

13. Coinage Act of April 2, 1792. I *Stat.* 246.

14. February 9, 1793 Foreign Coinage Act.1 *Stat.* 300 (note it says "legal" tender, w/o issue [see footnote 2]).

15. *Ibid.*

From this equivalent rate, one can see that the purity standards of British and Portuguese gold coins were the same as the original American standard—11/12[ths]-fine—even as the same value rate per weight of coin doesn't mean that British and Portuguese gold coins had the same overall weight as the American coins.

Section 1 also established the value of French and Spanish gold coins, of slightly-lower fineness. It took a little bit more weight of French and Spanish coins, to equal the same dollar value, as the American (and British and Portuguese) coins. The 1793 Foreign Coinage Act stated that "the gold coins of France, Spain and the dominions of Spain, of the present standard," shall be at the "rate of one hundred cents" for "every twenty-seven grains and two fifths of a grain, of the actual weight thereof."[16]

The American value for French and Spanish gold coins was one dollar for every 27.4 grains, equating with a 274-grain French or Spanish gold coin worth $10.00. This rate equates mathematically to a 90% gold purity standard, which is the same purity standard to which the U.S. would ultimately switch, in 1837.

Section 1 of the 1793 Act also gave the American rates of various silver coins. The Spanish milled dollar, for instance, was rated at 100 cents, as long as "the actual weight whereof shall not be less than seventeen pennyweights and seven grains."[17]

The minimum weight for the Spanish milled dollar was important, given their long circulation, because longer-duration circulation and wear would make old coins weigh less than when originally struck.

In the 1826 report on the assay of foreign coins, director of the mint Samuel Moore reports that:

> "The average loss on a silver currency, it appears, is nearly four grains of silver from the dollar, or about one cent in value in a period of fifty years. The loss on gold coin, it may be incidentally remarked, appears…to be not less than two per cent within the same period."[18]

16. *Ibid.*

17. *Ibid.*

18. *American State Papers,* Volume 5, Finance Series, Page 585 @ 589.

That a silver dollar typically loses only one penny's worth (one percent) of silver in 50 years of normal circulation, while gold coins lose about two percent over the same interval, shows that gold and especially silver coins hold up remarkably well in circulation.

Moore also commented that small silver coins "are in more constant action and lose proportionally more."[19]

In this 1793 Foreign Coinage Act, Congress gave the exchange rate between foreign and American gold in "cents per grain" (and silver coins, in "cents per pennyweights" and grains), directly acknowledging yet again that American legal tender money is but an amount and purity of gold or silver.

The various Coinage Acts of Congress show that it didn't matter where gold or silver were mined; it mattered little where the coins were struck; what mattered most was that coins were made of gold and silver of determinable purity and measured weight, so their legal tender value could be objectively determined in accordance with the designated monetary unit.

The rating of foreign gold and silver coin in American cents allowed us the output of foreign mints for all those coins that showed up on our shores—without cost and without the effort of striking them ourselves (needing only annual assays and then use of accurate scales [plus minor mathematical calculation at each trade [given their weights likely at odds with our own]).

This power of Congress—to regulate the American value of foreign coins—aided the supply of American money, before and until members of Congress were ever able to procure sufficient gold and silver coin production of our own.[20, 21]

The 1834 Coinage Act is a very important Act to understand, because the Supreme Court later misattributed false monetary theories against it, to deviously uphold legal tender paper currency, ultimately depriving Americans of both gold and silver coin.

Alexander Hamilton argued that using only one monetary metal would destroy the "office and character" of the other as money, reducing the non-used metal to the "situation of a mere merchandise."

But, the U.S. Supreme Court intentionally sought later to deprive Americans of *both* metals and usher in a fiat paper currency without value.

Obviously, to destroy the "office and character" of only one precious metal is far better than destroying the office and character of *both* precious metals.

That the defects inherent in an effective bi-metallic monetary standard were later used by unscrupulous men to deprive Americans of a circulating money of both silver and gold has brought upon the United States untold calamity, & unfathomable repercussions.

Like so many other things wholly misunderstood, a careful examination into proper parameters of action allows one to gain or regain sufficient understanding, as even to be able to establish or restore lost principles and throw off false rule.

The study of American money will prove this assertion, as the next few newsletter issues remain on this vital topic (or, see Matt Erickson's public domain books on this issue, at www.PatriotCorps.org).

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19. *Ibid.*

20. It was several years after enactment of the 1792 Coinage Act, before the mint building was constructed, furnaces and presses erected, and coinage began.[22]

21. The primary drawback of foreign coins made current in the United States, of course, is that their foreign weights resulted in an odd-denomination American values, necessitating calculation for precise valuation (like the 1834 Act made the full-weight 1792-eagle worth the odd-denomination value of $10.665).

It should also be noted that private coinage also made significant impact, such as the widely-acclaimed private Bechtler Mint, in North Carolina. Private coinage had the benefit of usually being struck in American weights and values, for ever better results, over foreign coin.

22. President John Adams' July 22, 1797 Proclamation No. 6 (11 Stat. 755) details that:

> "coinage of silver at the mint of the United States, commenced on the fifteenth day of October, one thousand seven hundred and ninety-four, and the coinage of gold on the thirty-first day of July, one thousand seven hundred and ninety-five."